

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**  
**CRIMINAL MISC.APPLICATION No. 1048 of 1995**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE D.H.WAGHELA**

**Sd/-**

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1 Whether Reporters of Local Papers may be allowed  
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy  
of the judgment ?

4 Whether this case involves a substantial question  
of law as to the interpretation of the  
constitution of India, 1950 or any order made  
thereunder ?

5 Whether it is to be circulated to the civil judge  
? 1 to 5 NO

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**AMBALAL M CHHAUHAN - Applicant(s)**

**Versus**

**STATE OF GUJ - Respondent(s)**

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**Appearance :**

MR BP GUPTA for MR YN OZA for Applicant(s) : 1,

MR SP HASURKAR ADDL PUBLIC PROSECUTOR for Respondent(s) : 1,

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**CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA**

**Date : 14/11/2006**

**ORAL JUDGMENT**

1. Invoking the provisions of section 482 of the Code of Criminal Procedure, 1973, the petitioner, an I.P.S. officer working at the relevant time as Superintendent of Police, has sought quashing of FIR bearing C.R.No.79 of 1995

filed at Ghatlodia Police Station on 11.3.1995 by a lady, who was alleged to have been living with the petitioner as a wife for two years even during the subsistence of her marriage with another person. She has alleged in the FIR the offences under sections 323, 379, 306, 498-A and 114 of the Indian Penal Code, 1860. Even as the petition was filed without joining the original complainant as respondent and the petition was admitted and ad-interim relief in terms of para 7(c) till 31.3.1985 was granted on 16.3.1995, it appears from the record that, even after formally entering the name of the original complainant in the cause-title, no notice is either issued or served upon the original complainant, who is joined as respondent No.2 by way of an amendment. The ad-interim relief staying further proceedings pursuant to the aforesaid complaint was extended till further orders on 3.5.1995, while hearing was adjourned to 19.6.1995. Subsequent record of the present proceeding is consistently of adjournments without service of notice upon respondent No.2 and any appearance on her behalf.

2. According to the order dated 26.9.2000, learned advocate Mr.B.P.Gupta, appearing on behalf of learned senior advocate Mr.Y.N.Oza, had sought adjournment on the ground of sickness of Mr.Oza and, in view of the objection raised by

the learned A.P.P., last chance was given to the learned advocate for the petitioner. The hearing appears to have been adjourned from time to time even thereafter. Thus, in short, the petitioner has not cared to see that respondent No.2 was ever served any notice of the present proceeding and given a chance to represent her case. This record is by itself sufficient to dismiss the petition and refuse to exercise the extraordinary jurisdiction conferred on this Court under the provisions of section 482 of the Cr.P.C.

3. Even on merits, the only argument of learned advocate Mr.Gupta, appearing for the petitioner, was that the FIR in question, *ex facie*, did not disclose the offences constituted and punishable under the sections mentioned in the FIR. It is well-settled and recently held by the Supreme Court in **MOHMED YUSUF v. AFAW JAHAN [(2006) 1 SCC 627]** that there is no particular format of a complaint. If the reading of the complaint and the allegations made therein were disclosing any offence under the law, investigation thereof cannot be scuttled only on the ground that inapplicable sections of the Indian Penal Code were mentioned in the complaint or the FIR. In the facts of the present case, taking the complaint at its face value, serious allegation of keeping the complainant as a second

-wife during the subsistence of his and her marriage and beating her on both the eyes and driving her to commit suicide are made. No reason is made out not to allow even an investigation into the offences, as alleged in the FIR. It would be for the investigating agency to properly investigate and make appropriate report in the court .

4. Thus, in the above facts and circumstances and no ground having been made out, the petition is dismissed and Rule is discharged with no order as to costs.

Sd/-

**( D.H.Waghela, J.)**

*(KMG Thilake)*